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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,263

06/07/2006

Frank Lehnert

Belimo P1013 US

4664

37138 7590 10/02/2008  
THADDIUS J. CARVIS  
102 NORTH KING STREET  
LEESBURG, VA 20176

EXAMINER

MILLER, SAMANTHA A

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

10/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,263	<b>Applicant(s)</b> LEHNERT, FRANK	
	<b>Examiner</b> SAMANTHA A. MILLER	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/7/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 4-16 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on a multiple dependent claim. Claim 3 is a multiple dependent claim that claims 4-16 depend on. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 recites the limitation "the control electronics" in the device. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

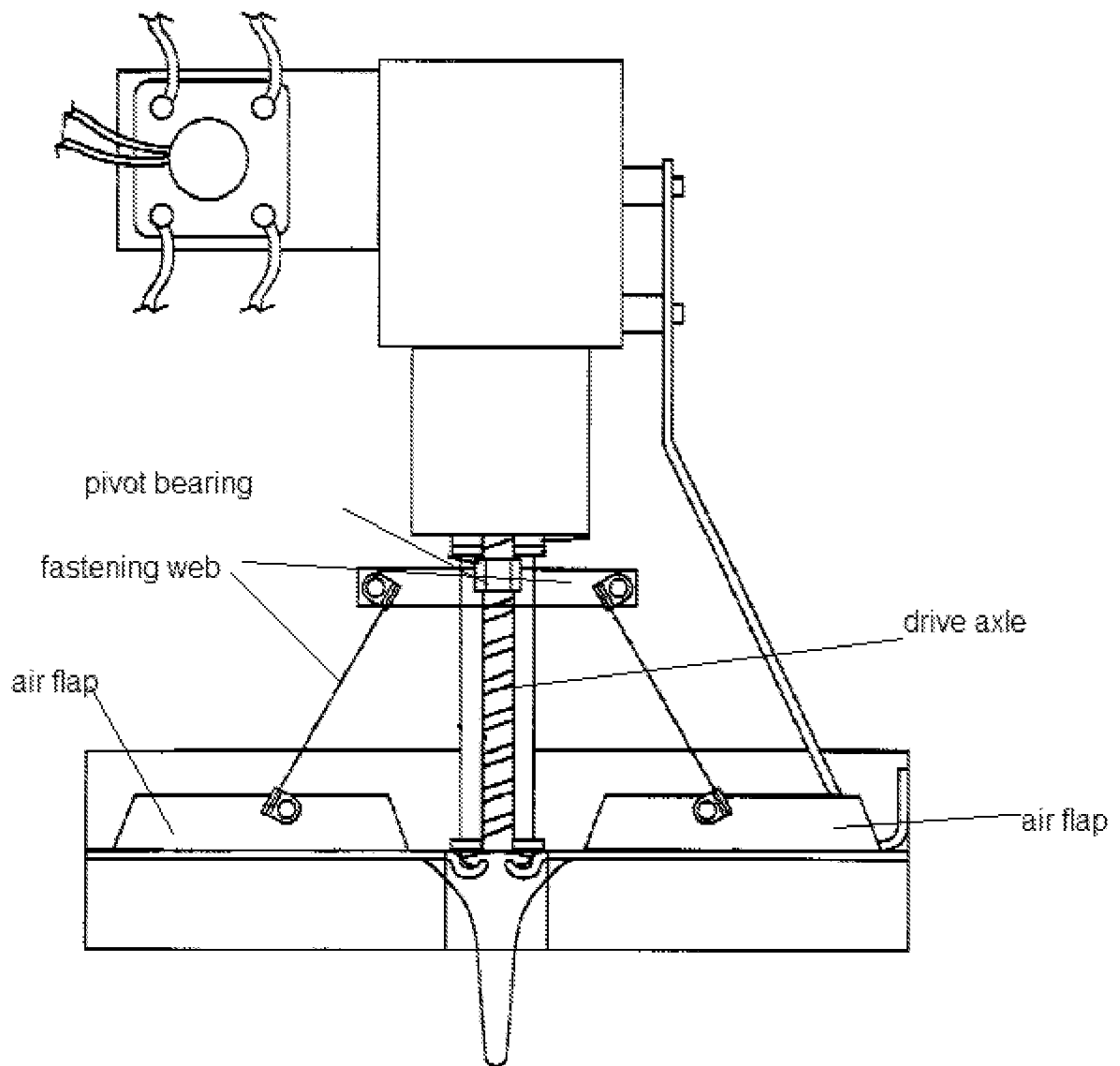
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by McCabe (2001/0055947).

1. A fastening web (See Examiner Figure A below) with a pivot bearing (66) (See Examiner Figure A below) for the drive axle (38) (See Examiner Figure A below) of the

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air flap(s) (See Examiner Figure A below) and means (the motor, para.0068) (See Examiner Figure A below) for transmitting force and/or torque to the drive axle (para.0068) (See Examiner Figure A below) connected to the air flap(s) (See Examiner Figure A below) are arranged in the ventilating pipe (Fig.8), on a longitudinally extending plane of symmetry, wherein the same fastening web (See Examiner Figure A below) fitted with various air flaps (See Examiner Figure A below) can be used for cross-sectionally differently dimensioned ventilating pipes (Fig.1 and Fig.8).



**FIG. A Examiner provided figure 9 from McCabe**

2. The fastening web extends at an angle of preferably 15 to 90° with respect to the longitudinal axis or the pipe wall of the ventilating pipe (See Examiner Figure A, web's are at 45°).

3. The fastening web is fastened so as to be detachable at one end and so as to be pivotable in the plane of symmetry on the pipe wall (See Examiner Figure A, the webs are attached towards the middle of the flaps).

4. The fastening web extends over the entire pipe cross-section and rests at the free end with a support face on the pipe wall (Fig.6).

5. The fastening web is detachably fastened at both ends to the pipe wall (Fig.6).

6. The actuator (the motor, para.0068) of the drive axle(s) (38) is integrated at least partially into the fastening web (See Examiner Figure A), preferably a program-controlled electric motor.

7. The actuator (the motor, para.0068) acts on the drive axle(s) (38) by way of a reducing gear (50) (para.0065).

8. The control electronics (62, 38) are installed at least partially in the fastening web (See Examiner Figure A).

9. The fastening web (See Examiner Figure A) is streamlined, preferably round or prismatic with rounded edges.

10. A fastening point is provided, in each case, on the drive axle (38) on either side of the fastening web (See Examiner Figure A) for the air flap(s) (See Examiner Figure A).

11. The drive axles (38) of the air flap(s) (See Examiner Figure A) are lengthened for centring thereof on either side of the pipe wall (Fig.8) and are supported there.

12. The blade-shaped air flap (See Examiner Figure A) can be folded over parallel to the drive axle (Fig.6).

13. The gap (Fig.8) of the blade-shaped air flap (See Examiner Figure A) has three-dimensional means, in particular sealing hoods (154) for sealing until the closed position is reached (para.0084).

14. The blade-shaped air flap (See Examiner Figure A) is configured with a continuous gap (Fig.8) for the fastening web, in one piece with a gap or with joined halves with a gap (Fig.8).

15. A monitor (142,150,152) visually displays the flap position.

16. Measuring cells (142,150,152) for measuring the differential pressure, the volume flow and/or the flap position are arranged on the fastening web (para.0081).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272 9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller  
Examiner  
Art Unit 3749  
9/26/2008

/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749